REMARKS

Claims 1-20 are pending in the application.

Claims 1-20 have been rejected.

CLAIM REJECTIONS -- 35 U.S.C. § 103

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over what the Examiner characterizes as "Applicant's admitted prior art" (hereafter "APA") in view of *Citta et al.* (U.S. Patent No. 5,602,595), hereinafter "Citta".

The "Background of the Invention" section of the application as filed describes conventional MPEG-2 compression. In particular, it describes the MPEG-2 packetized elementary stream (PES) on page 7, including that the PES includes packet header 405, optional PES header 410, and associated packet data 415. Packet header 405 comprises packet start code prefix 420, stream identifier (ID) 425, and PES packet length indicator 430. All of the fields after PES packet length indicator 430 are optional.

Because the PES includes numerous optional fields, it is in no way a "fixed-size program packet" as described in independent claims 1, 6, 11, and 18. Nothing in the background section of the specification, which the Examiner characterizes as "admitted prior art," describes reformatting PES packets of disparate size into fixed-size program packets, as required by each independent claim.

The Examiner now suggests that Citta discloses a suitable fixed-size program packet. Citta describes a system that encodes variable length elementary streams of data into a multilevel symbol signal comprising a plurality of multiplexed fixed length data packets without sync information. The fixed length data packets are arranged in fields of repetitive data segments, each of which includes a data segment sync and each field of which includes a field sync.

Claim 1 requires that each of the received PES packets is reformatted into at least one fixed-size program packet having a header and a payload, the header defining a payload content. This is not taught or suggested by the art of record.

In particular, while Citta includes a fixed-length packet, the header of Citta's packet does not define the payload content, as claimed. Citta discloses a packet having a 4 byte header at the beginning of the packet, with the first byte of the header being the MPEG sync byte. The header also includes a 13 bit packet identifier (PID). Citta also discloses a packet having a 3 byte header and a 184 byte payload. Citta does not teach or suggest a fixed-length packet having a header and payload, where the header defines the payload content, as required by claim 1. As such, claim 1 clearly distinguishes over any combination of APA and Citta, as do dependent claims 2-5.

Claim 3 requires that the fixed size of said at least one fixed-size program packets is a multiple of a sector size of said storage disk. This feature is not taught or suggested by APA or Citta, alone or in combination, and the Examiner erroneously states that some relevant teaching is found in APA.

Claim 4 requires that the header of each fixed-size packet defines at least one of stream type,

timing information and picture information. This feature is not taught or suggested by APA or Citta, alone or in combination, and the Examiner erroneously states that some relevant teaching is found in APA. Nothing in APA teaches such a fixed-size packet.

Claims 6 and 11 requires a digital video recorder, a storage disk, and storing fixed-size program packets into a multiplexed program stream in the storage disk. This feature is not taught or suggested by APA or Citta, alone or in combination, and the Examiner erroneously states that some relevant teaching is found in APA. Nothing in APA teaches storing a fixed size program packets into a multiplexed program stream in a storage disk, and nothing in Citta discusses storing anything at all. Dependent claims 7-10 and 12-17 similarly distinguish over a combination of APA and Citta.

Claim 18 includes similar limitations as claims 6 and 11. This feature is not taught or suggested by APA or Citta, alone or in combination, and the Examiner erroneously states that some relevant teaching is found in APA. Nothing in APA teaches storing a fixed size program packets into a multiplexed program stream in a storage disk, and nothing in Citta discusses storing anything at all. Dependent claims 19-20 similarly distinguish over a combination of APA and Citta.

Because each independent claim includes limitations not found in any cited art, and not described or in any way "admitted" by the Applicant as prior art, all independent claims and their respective dependent claims should be allowed over all art of record.

All rejections are traversed.

Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Applicant reserves the right to submit further

arguments in support of their above stated position as well as the right to introduce relevant secondary considerations including long-felt but unresolved needs in the industry, failed attempts by others to invent the invention, and the like, should that become necessary.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at ***wmunck@munckbutrus.com***.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS P.C.

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